

Please return to the O. A. R. by 5:00 p.m., Wednesday, September 17, 2008

IDAPA 25- OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-2107(b) and (d), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These changes will require that outfitters continue to verify that their guides are properly trained, however, the outfitter will no longer be required to submit all training documents to Board for review and storage. This will expedite the issuance of guide licenses. The Board has not had the means to verify individual guide training and has always been dependent on the outfitter verification. As such, all liability rests with the outfitter and not the State of Idaho. This change removes any doubt. Training will be verified by the Board on a case-by-case basis and in situations needing to be investigated by the Board enforcement unit. These changes will result in greater efficiency in the licensing process and allow to Board to more effectively deal with issues rather than processing paperwork with no real benefit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule affects a broad industry with varying interests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jake Howard, Executive Director (208) 327-7380 - FAX (208) 327-7382.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2008.

DATED this 30th day of August, 2008.

Jake Howard
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Outfitters and Guides Licensing Board
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(208) 327-7380
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 25-0101-0801

034. GUIDE APPLICATION REQUIREMENTS - GENERAL.

To be complete, an application for a guide license must: (4-1-92)

01. First Aid Card. Be accompanied by an affidavit signed by the employing outfitter that the applicant will have a valid first aid card before they are employed as a guide. (4-11-06)

02. Signatures. Have the signature of the applicant and of the licensed outfitter(s) who wishes to employ the applicant as a guide, who shall certify that the applicant: (4-1-92)

a. Is qualified to perform the type of guiding activity(ies) for which the applicant seeks licensing; i.e., hunting, boating, skiing, or other as may be applicable. (4-11-06)

b. Has extensive, first-hand knowledge of the operating area(s) and water(s) in or on which the applicant will be guiding. (4-11-06)

c. If the applicant is land based, is able to read and understand a map and compass or operate a global positioning system (GPS) or other computerized map system. (4-11-06)

d. Is clean and well-mannered with a desire to please those whom the applicant is called upon to serve. (4-11-06)

e. The applicant for a hunting or boating guide license shall satisfy the training requirements pursuant to Sections 035 through 042 of this rule, prior to performing guiding services for an outfitter. Power boat fishing guides shall satisfy the training requirements pursuant to Section 048 of this rule. ()

f. For hunting and boating guide applicants, the training form or log set forth in Sections 035 through 042 and Section 048 of this rule and shall be completed in full on a form provided by the Board before the guide license application is submitted to the Board and shall be maintained by the outfitter during the time the guide is employed by the outfitter for one (1) complete license year following the termination of employment of the guide. ()

g. The applicant for a ski guide license shall satisfy the training requirements pursuant to Section 044 of this rule prior to performing guide services for an outfitter. The training documentation required pursuant Section 044 of this rule shall be provided to the Board by the outfitter for each guide at the time of application. A copy shall be maintained by the outfitter for one (1) complete license year following the termination of employment of the guide. ()

h. The applicant for a Technical Mountaineering/Rock Climbing license shall satisfy the training requirements pursuant to Section 045 of this rule prior to performing guide services for an outfitter. The training documentation shall be provided to the Board by the outfitter for each guide at the time of application. A copy shall be maintained by the outfitter for one (1) complete license year following the termination of employment of the guide. ()

i. The applicant for a Snowmobiling guide license shall satisfy the training requirements pursuant to Section 047 of this rule prior to performing guide services for an outfitter. The training documentation on these forms shall be provided to Board the by the outfitter for each guide at the time of application. A copy shall be maintained by the outfitter for one (1) complete license year following the termination of employment of the guide. ()

03. Retention of Training Forms. If a guide is involved in an accident or incident jeopardizing the health, safety or general welfare of a client, the training log shall be retained by the outfitter for a period of three (3) years from the date of the accident or incident. These forms shall be maintained by the outfitter for each guide and shall be available for inspection by the Board or agents of the Board. ()

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035. GUIDE APPLICATION REQUIREMENTS - HUNTING.

A guide applicant for big game hunting may be licensed either as apprentice guide, or as a guide. (3-1-86)

01. Apprentice Guide. An apprentice guide is a new hunting guide applicant who has not had previous experience as an Idaho hunting guide. He may be licensed as an apprentice guide by submitting a completed application form and fee. (3-1-86)

02. Apprentice Guide. An apprentice guide may assist a hunting guide while completing training necessary to become a guide, but may not be given primary responsibility for guiding a hunt. (3-1-86)

03. ~~Minimum Training~~ Guide. A new hunting guide applicant must have in addition to other general requirements outlined in Section 034 of this rule, the following minimum training certified by the employing outfitter before a guide license may be issued: (3-1-86)(____)

a. The applicant must have been in the outfitter's operating area(s) for at least ten (10) days and must be knowledgeable of trails, terrain, drainages, and game habits and habitat. (3-1-86)

b. He must be able to correctly cape an animal and be adequately trained so as to be able to instruct and assist clients in the proper care of meat. (3-1-86)

~~**04. Submission.** Submission of a copy of a training form, with the employing outfitter's signature certifying that training is complete, will permit licensing as a guide rather than as an apprentice. (3-1-86)~~

~~**05. Expedite.** If an applicant wishes to expedite issuance of a hunting guide license, but does not have the required training and does not wish to be licensed as an apprentice guide, he must obtain from the Board, and have in his possession while training occurs, a validated training form. This form may be obtained by: (3-1-86)~~

~~**a.** Meeting all requirements for a hunting guide license except completion of the necessary training; and (3-1-86)~~

~~**b.** Submitting to the Board a completed guide license application form and guide license fee. (3-1-86)~~

~~**c.** Upon completion of the required training, the validated training form, with the outfitter's signature certifying that the required training has been completed, will serve as a twenty (20) day temporary license from the date the outfitter signs the form, provided that a copy of the validated training form has been immediately forwarded to the Board office for a license. (3-1-86)~~

064. Upgraded. If an apprentice guide license has been issued, the apprentice license may be upgraded to that of a guide when the required training is completed, when certified by the employing outfitter, and a copy of the completed training form is submitted to the Board along with the amendment fee. (3-1-86)(____)

036. ~~DESCRIPTION OF CLASSIFIED RIVERS~~ GUIDE APPLICATION REQUIREMENTS -- RIVERS, STREAMS, OR LAKES.

Boating on any river, stream or lake is considered hazardous. For the purpose of these Rules, specific sections of some whitewater river or streams which are considered more hazardous have been designated "classified." Classified rivers are denoted by an asterisk (*) in the list of rivers contained in Subsection 059.01. (3-1-86)(____)

(BREAK IN CONTINUITY OF SECTIONS)

038. FLOAT BOAT GUIDE -- UNCLASSIFIED RIVERS.

To qualify as a float boat guide on unclassified rivers and streams, the applicant shall have had one (1) complete commercial float boat trip on each of the rivers applied for, (complete trip means the total section of river designated by the Board in Subsection 059.01), under the supervision of a float boat guide licensed for each of those rivers. A log

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of this experience shall ~~be kept and submitted to~~ be recorded on a form provided by the Board office giving dates, and location, and the signature of shall be maintained by the outfitter. This training must be recorded on a form provided by the Board. (4-1-92)(____)

(BREAK IN CONTINUITY OF SECTIONS)

040. FLOAT BOATMAN QUALIFICATIONS -- CLASSIFIED RIVERS.

An applicant for a float boatman license on classified rivers may qualify in one (1) of three (3) ways: (4-1-92)

01. General. He shall have had three (3) complete float boat trips on each of the classified rivers applied for under the direct supervision of a float boatman licensed for that river (complete trip means the total section of river designated by the Board in Subsection 059.01), or he shall have had one (1) or more complete float boat trips on each of the classified rivers applied for under the direct supervision of a float boatman licensed for that river with the remaining trip(s) in a boat with no more than one (1) other trainee, following a licensed float boatman for that river, but he must not have passengers in the boat. (4-1-92)

a. Allowances may be made for experience gained as a commercial boat operator on selected whitewater rivers with characteristics similar to Idaho's classified rivers; e.g. Colorado River (Grand Canyon or Cataract Canyon), Yampa River, Rogue River, American and Toulumne Rivers, other Idaho classified rivers, or the unclassified section of the Salmon River from North Fork to Corn Creek, provided the applicant has logged at least five hundred (500) miles as a commercial float boat operator on one (1) or more of those rivers. (4-1-92)

b. To ~~obtain credit for document~~ this experience, a statement signed by the applicant under oath or affirmation and notarized ~~must accompany the application~~ shall be recorded on a form provided by the Board office. The statement should include precise put-in and take-out points, miles logged for each trip, and the names and addresses of the boat operators who have employed them. (4-1-92)(____)

02. Other. Or, he shall have logged at least five hundred (500) miles as a commercial float boat guide on any rivers applicable to Subsection 040.01.a., and shall have one (1) complete float boat trip on each river applied for under the direct supervision of a float boatman licensed for that river, or in a boat with no more than one (1) other trainee, following a float boatman licensed for that river, but there must not be any passengers in the boat. (Complete trip means the total section of river designated by the Board in Subsection 059.01). A log of this experience shall be recorded on a form provided by the Board office and maintained by the outfitter showing the dates, location of float boat trips and the signature of the outfitter. (4-1-92)(____)

03. Float Lead Boatman. Or, if he is licensed as a float lead boatman on a classified Idaho river, he may qualify for a float boatman license on other classified rivers after one (1) complete float boat trip on each river applied for, under the direct supervision of a float boatman licensed for that river, or in a boat with no more than one (1) other trainee, following a float boatman licensed for that river, but he must not have passengers in the boat. (Complete trip means the total section of river designated by the Board in Subsection 059.01.) A log of this experience shall be ~~kept and submitted to~~ recorded on a form provided by the Board office and maintained by the outfitter showing the dates, location of float boat trips, and the signature of the outfitter. ~~This training must be recorded on a form provided by the Board.~~ (4-1-92)(____)

041. FLOAT LEAD BOATMAN QUALIFICATIONS.

An applicant for a float lead boatman license must have had six (6) complete float boat trips except that upon Board approval, a licensee may train on and be licensed for a specific reach of a section only. (Complete trip means the total section or reach of a section of river designated by the Board in Subsection 059.01). One (1) trip must have been within the sixty (60) months preceding the date of the application on each of the classified rivers applied for. Any float boatman wishing to qualify for a lead float boatman license shall ~~maintain a log of record on a form provided by the Board~~ each commercial float boat trip made with dates, location, and signature of the outfitter. This The training must shall be recorded on a form provided by the Board and maintained by the outfitter. (4-5-00)(____)

042. POWER BOAT GUIDE.

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To qualify for a power boat guide license on:

(4-1-92)

01. Classified Rivers. An applicant shall have spent fifty (50) power boating hours on the total length of the river or section of river designated on the application by the Board for which he wishes to operate, under the direct supervision of a power boat guide licensed for that river. The fifty (50) hours required shall be distributed as evenly as possible along the total length of the river or section of river for which qualification is sought. The exception to this rule is the Salmon River from the mouth of the Middle Fork to Salmon Falls, Salmon Falls to Ludwig Rapids, and Ludwig Rapids to Vinegar Creek or Spring Bar, on which the applicant may train for twenty-five (25) hours on each section under the direct supervision of a power boat guide licensed for that river section. (4-1-92)

02. Unclassified Rivers and Streams. An applicant shall have spent at least ten (10) power boating hours on the total length of the river or section of river designated by the Board on the application for which he wishes to operate, under the direct supervision of a power boat guide licensed for that river or stream. The ten (10) hours required shall be distributed as evenly as possible along the total length of the river or section of river for which qualification is sought. (4-1-92)

03. Lakes and Reservoirs. An applicant shall have spent at least ten (10) power boating hours on the lake or reservoir on which he wishes to operate, under the direct supervision of a power boat guide licensed for that lake or reservoir. The ten (10) hours shall be distributed as evenly as possible on the entire area of the lake or reservoir for which qualification is sought. (4-1-92)

04. Log. A log of this experience shall be ~~kept and submitted with the application~~ recorded on a form provided by the Board office and maintained by the outfitter, showing the dates, river, lake or reservoir, location of put-in, destination, take-out, hours logged, and signature of outfitter. ~~This training must be recorded on a form provided by the Board.~~ (4-1-92)()

043. ~~BOAT TRAINING LOGS/FORMS (RESERVED).~~

~~Boat training logs are available from the Board to record training trips. Training logs may be used for licensing purposes as follows:~~ (4-1-92)

~~**01. First Time Applicant.** For a first time applicant, a copy of the completed training log that includes the applicant's signature and outfitter's dated signature verifying that the required training has been completed, shall be submitted, along with a completed guide application, copy of a current first aid card, and the necessary fees, to the Board before a guide license will be issued. (Exception: See Validated Training Form).~~ (4-1-92)

~~**02. Amend Current Guide License.** To amend a current guide license to add an additional river segment(s), a copy of the completed training log that includes the applicant's signature and outfitter's dated signature verifying that the required training has been completed, shall be submitted, along with the necessary fees, to the Board so that an amended guide license can be issued. Validated training forms may be used as a temporary guide license while the regular guide license is being processed. To obtain a validated training form, a guide must specify the particular river section on which he wishes to train, and meet the following requirements:~~ (4-1-92)

~~**03. Other.** If the guide is a first time applicant, he must submit a guide application form, first aid card, and necessary fees, and request a validated training form. When the completed paperwork is received at the Board, a validated training form will be issued to the applicant. Upon completion of training, a copy of the validated training form, containing the required guide's signature, supervisor's signature, and outfitter's dated signature, shall be returned to the Board. The validated training form retained by the guide will serve as a twenty (20) day temporary guide license effective the date of the employing outfitter's signature. The copy of the validated training form at the Board office will serve as an official training log to allow issuance of the regular guide license.~~ (4-1-92)

~~**04. Form.** A currently licensed guide may also request a validated training form to add additional river sections to his license. Upon receipt of a request for a validated training form accompanied by the appropriate amendment fees, the Board will issue said form for the specified river section. When training has been completed, a copy of the validated training form containing the required signatures shall be sent to the Board and will be considered an official training log. Upon receipt by the Board, the amended guide license will be issued. The validated training form retained by the guide will serve as a twenty (20) day temporary license, effective the date of the employing outfitters signature.~~ (4-1-92)

(BREAK IN CONTINUITY OF SECTIONS)

048. POWER BOAT FISHING GUIDE -- (LAKES AND RESERVOIRS).

All applicants for a power boat fishing guide license shall possess the ability and knowledge to: (10-15-88)

01. Maneuver or Pilot. Maneuver or pilot a power boat upon Idaho lakes and reservoirs open to power boat fishing. (10-15-88)

02. Operation. Have operated a power boat for a minimum of ten (10) hours upon the lakes and reservoirs being requested. (10-15-88)

03. Log. ~~Submit a log of said experience showing dates and hours logged, location of lakes and reservoirs upon which said experience has been gained as certified by the employing outfitter~~ A log of this experience shall be recorded on a form provided by the Board office and maintained by the outfitter showing the dates, location of power boat trips, and the signature of the outfitter. (10-15-88)()

04. Law. Conduct his business in accordance with the Idaho Safe Boating Act (Idaho Code, Title 67, Chapter 10). (10-15-88)

(BREAK IN CONTINUITY OF SECTIONS)

065. LICENSE AMENDMENTS.

01. Procedure for Amendment to Outfitter License. An outfitter must procure an amendment to their license through the following procedure: (4-5-00)

a. The applicant requests an Amendment Request Form (OG9) from the Board. (4-5-00)

b. The applicant fills out and returns the completed Amendment Request Form to the Board along with an amended operating plan, financial statement, map (if applicable), land manager signoff sheets (if applicable), and the amendment fee as provided for in Section 009. (4-5-00)

c. The Board initiates a review and analysis of the application following which the applicant is informed that: (4-5-00)

i. Additional materials are needed to complete the application; or (4-5-00)

ii. The amendment request is granted; or (4-5-00)

iii. The amendment request is denied. (4-5-00)

02. Procedure for Amendment to Guide License. A guide must procure an amendment to their license through the following procedure: (4-5-00)

a. The guide or the outfitter must initiate the amendment request by contacting the Board. (4-5-00)

b. ~~The guide for which all amendment requests are made must meet and provide proof of original training requirements for the area and activity to be added or amended and proof of such training must be sent to the Board along with the amendment fee as provided for in Section 009.~~ The outfitter for which all amendment requests are made must submit: (4-5-00)()

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i. A properly completed amendment form that provides certification that training requirements for the area and activity to be added have been met and proof of such training will be available at the Board's request. ()

ii. The amendment fee as provided for in Section 015. ()

c. The Board initiates a review and analysis of the application following which the applicant is informed that: (4-5-00)

i. Additional materials are needed to complete the application; or (4-5-00)

ii. The amendment request is granted; or (4-5-00)

iii. The amendment request is denied. (4-5-00)